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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 2525.0800001

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on _____

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Application Number	Filed
10/082,591	February 22, 2002

First Named Inventor: Ulfar ERLINGSSON

Art Unit	Examiner
2194	Cao, Diem K.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☐ attorney or agent of record. Registration number _____.
- ☒ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 37,575

Signature

Michael V. Messinger
Typed or printed name

(202) 371-2600
Telephone number

August 28, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

715,068

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 5689
Erlingsson.	Art Unit: 2194
Appl. No.: 10/082,591	Examiner: Cao, Diem K.
Filed: February 22, 2002	Atty. Docket: 2525.0800001
For: **Altered States of Software Component Behavior**	

Arguments to Accompany the Pre-Appeal Brief Request for Review

Mail Stop: AF

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby submits the following Arguments, in five (5) or less total pages, as attachment to the Pre-Appeal Brief Request for Review Form (PTO/SB/33). A Notice of Appeal is concurrently filed.

Arguments

Applicants' arguments in the Reply under 37 C.F.R. § 1.114, filed in response to the Office Action issued September 22, 2006, were not properly considered or responded to by the Examiner in the final Office Action issued March 28, 2007 ("Office Action"). In particular, the Examiner's response was legally and factually deficient because the Examiner failed to adequately show that any of the cited references teach or suggest (1) evaluating a service request based on at least one dynamically alterable condition dependent rule, as recited in independent claims 1, 49-52, 64, and 101-104; and (2) at least one of a present software system state and a past software system state, as recited in independent claims 1, 49-52, 64, and 101-104.

Claims 1, 49-52, 64, and 101-104 are the independent claims in this application. All independent claims recite, among other features, "evaluating the service request based on at least one dynamically alterable condition dependent rule" and "evaluating the service request based on . . . at least one of a present software system state and a past software system state."

The Examiner rejected claims 1-5, 8-9, 13-17, 19, 26-28, 30, 35-39, 40-47, 49-54, 58-60, 64-69, 71, 78-80, 82, 87-91, 92-99, 101-106, and 110-112 under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent 6,529,985 to Deianov et al. (hereinafter "Deianov") in view of U.S. Patent 6,944,761 to Wood et al. (hereinafter "Wood").

In rejecting these claims, the Examiner asserts that Deianov and Wood in combination teach the above recited features of independent claims 1, 49-52, 64, and 101-104. However, as will be explained below, Deianov and Wood individually or in combination, fail to teach or suggest these features, and thus the Examiner's continued rejections based on 35 U.S.C. § 103 are legally and factually deficient.

1. Deianov and Wood do not Teach or Suggest Evaluating the Service Request based on at least one Dynamically Alterable Condition Dependent Rule

In rejecting each independent claim, the Examiner concedes that Deianov does not teach or suggest this feature, but claims that Wood teaches a dynamically alterable condition dependent rule. Applicants found no indication or suggestion in Wood that the rules evaluating a service request are dynamically alterable. In fact, Wood teaches a static set of mapping rules, where suitable credential types or authentication mechanisms, not the mapping rules, may vary based on environment information. (See Wood, col. 7, lines 3-6). For example, Wood describes a system in which environment information,

such as the time of request or the connection speed, can influence the type of credentials that are allowed to access resources. At most then, the arguments to the rules that control the association between authentication and trust levels can vary; however, the rules themselves remain constant.

Wood further discloses that mapping rules may be dynamically varied; however this is misleading. (See col. 7, lines 13-18). In fact, in that context, Wood describes rules that can be changed only if the trust level mappings are updated. This is analogous to updating the virus definitions of a virus scan utility, wherein the rules are static, but not permanently stored. The rules are thus not dynamically alterable, as recited in the rejected claims.

Finally, Wood discloses that "in general, such mapping rules may be encoded as static or dynamic table associating trust level to authentication." (See col. 21, lines 62-64). In a static table, as defined by Wood, the trust levels and authentication would have a one-to-one mapping. As such, no matter the conditions, a given authentication will always result in a given trust level, meaning the rules are constant. In a dynamic table, as defined by Wood, there is no one-to-one mapping between authentication and trust level because variables may influence the mapping, as defined by the mapping rules. The mapping rules are then still constant, with the final association influenced by the arguments received. To further solidify this argument, Applicant points to a passage in Wood where it is written that "the mapping rules are a function of environment information." (See col. 11, lines 45-46). In other words, the mapping rules take arguments in order to determine the association.

2. Deianov and Wood do not Teach or Suggest Evaluating the Service Request based on at least one of a present software system state and a past software system state

In rejecting each independent claim, the Examiner alleges that Deianov teaches this feature. In particular, the Examiner refers to col. 8, lines 29-31 of Deianov as allegedly teaching evaluating the service request based on a present software system state. However, the foregoing paragraphs of Deianov teach an interception module checking an execution flag to determine if the system call wrapper is currently executing. Deianov describes this process in order to explain how the system avoids infinite recursion when the system call wrapper calls the same system call that the system call wrapper was meant to replace. (See Deianov, col. 8, lines 29-46). Accordingly, in this case, the original system call that was made by the process has already been evaluated, and the system call currently being evaluated based on a present software system state was called by the system call wrapper, not by the software component, as recited in the rejected independent claims.

The Examiner further refers to col. 8, lines 16-19 of Deianov as allegedly teaching evaluating the service request based on a past software system state. However, the above recited paragraphs of Deianov describe a table lookup, wherein the interception module examines an association table to determine if the executing process is associated with a system call wrapper. Accordingly, no evaluation performed here is based on a past software system state because the association table contains a current mapping of processes to system call wrappers.

3. Conclusion

In view of the foregoing, Applicant respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) over Deianov, in view of Wood.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

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Date: 8/28/07

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